



J.W.
ALLEN & CO. INC.

Federal Maritime Commission
800 North Capitol St. N.W.
Washington, DC 50573-0001

March 19, 2012

RE: Docket No. 11-22, Negotiated Rate Arrangements - Response to NOI

Dear Honorable Commissioners:

The Commission's 2011 decision allowing NVOCC's to take advantage of an exemption from tariff rate publication requirements was a huge step toward recognizing both how the industry has evolved and the environment in which the Trade currently operates.

In taking advantage of the exemption this companies experience has without question been very positive. Further broadening the scope of the exemption to include all lawful NVOCC's, including those who are foreign registered and not just those who are licensed, can only lend itself to the Trades ability to operate on an equitable basis with all NVOCC's.

Expansion of the ruling would have other positive effects as well; e.g.: mitigation of internal compliance costs, funds that could be freed up to hire additional staff.

Nonetheless, despite our positive experience there are areas of concern with the ruling which should be taken under advisement by the Commission. Addressing these concerns would foster further participation by the Trade, improving and strengthening the initiative as a whole.

As it appears the intent of this exemption was for the betterment of the Trade at large, limiting it to only licensed NVOCC's could be considered discriminatory as it provides one designated group of NVO's to have a distinct advantage over another.

With the exclusion of certain parties from enjoying the benefit of this exemption there is another concern; that of possible retaliatory action being taken against US licensed NVOCC's by foreign governments due to the inequities of the ruling as it currently stands.

There are administrative concerns with the current ruling as well; the inability to include surcharges, GRI's, credit terms, MRQ's, possible penalties and no provision to allow for the amendment of a NRA.



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Although brokers have explained to shippers the regulatory necessity to provide in writing over their name and title their approval of the NRA, there remains difficulty in getting some to comply. We've not experienced this particular issue ourselves but other NVO's with whom we speak have and while not to overstate the issue and claim it's epidemic, it is nonetheless still a far-reaching issue with potentially serious implications.

Not all shippers, particularly those doing so via a mobile device, will respond with more than verbiage indicating their acceptance of the NRA by virtue of asking a booking be made. While it is technically possible on most, closing styles are usually not included in mobile device communications and the sender is typically nonresponsive to a request to manually include this information. Even taking a stern position with the shipper on this matter doesn't always meet with full compliance.

NVOCC's having to decline shipments based on the lone issue of a proper closing style is not reasonable and some relief is sought. Long term clients of NVO's are well known to them and as such have established bona fides. Email or mobile communications from a known source, contact or entity should be sufficient to meet the intent of this requirement. This is not unreasonable as communications concerning shipments typically originate from a core group on both sides.

New clients, once their credentials have been established, should receive the same consideration as other known shippers. In this companies experience there is a vetting of new clients and credentials are clearly established before a shipment moves. The identity of those persons specifically authorized to approve NRA's, or other business dealings for that matter, is defined beforehand. History has shown this process to work without flaw and never has an issue arisen after the fact over the charged ocean freight between the shipper and ourselves.

An area seen as a contradiction in the current rule is the requirement to publish rate tariffs; if rates are truly exempted and unregulated, why is publication necessary? Records of NRA's are easily maintained and can be presented promptly upon written request so is public publication truly necessary?

Despite the concerns expressed herein the benefits to Trade derived from this ruling in its current form are clearly apparent. The Commission is encouraged and respectfully requested to built upon this and take steps to further implement change for the good of the Trade. This company staunchly supports expansion of the exemption and urges the Commission to take positive action in establishing equal opportunity for the benefit of the Trade as a whole.

This Commission's attention to our letter is greatly appreciated.



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Under penalty of perjury I declare I have read the foregoing and it is true and correct to best of my knowledge, information and belief.

Regards,

A handwritten signature in blue ink, appearing to read 'W.J. Yennie', is written over the typed name.

W.J. Yennie
Vice President Exports/ NVOCC
J.W. Allen & Company, Inc.